

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE APPLICATION OF SUKHBAATAR
BATBOLD FOR AN ORDER PURSUANT TO
28 U.S.C. § 1782

Petitioner.

Case No. 21-mc-218

**EX PARTE APPLICATION FOR JUDICIAL ASSISTANCE TO OBTAIN EVIDENCE
FOR USE IN A FOREIGN PROCEEDING PURSUANT TO 28 U.S.C. § 1782**

Based upon the concurrently filed Memorandum of Law, Declarations of Orin Snyder, Patrick Doris, Brian Gilchrist, John Kelleher, Yufei Wang, and Z. Sukhbaatar, and supporting documents, Sukhbaatar Batbold respectfully applies to this Court for an *ex parte* Order, pursuant to 28 U.S.C. § 1782 and Federal Rules of Civil Procedure 26, 30, and 45, granting him leave to serve K2 Intelligence a/k/a/ K2 Integrity with subpoenas in substantially the same form of those attached as Exhibits 1-2 to the Declaration of Orin Snyder for the production of documents and deposition testimony for use in proceedings in Mongolia, the United Kingdom, the Bailiwick of Jersey, the Republic of Singapore, and the Hong Kong Special Administrative Region of the People's Republic of China.

As set forth in the accompanying memorandum of law, Mr. Batbold's application meets the three statutory requirements of Section 1782. Mr. Batbold, as a party to foreign proceedings, seeks discovery from individuals or entities that "reside[]" or are "found in" this judicial district for use in foreign lawsuits. *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004). Similarly, each of the four factors that the Supreme Court established to guide this Court's

discretion in permitting discovery pursuant to Section 1782 also weigh in favor of awarding discovery. *First*, the respondent is not a party to the foreign lawsuits. *Second*, courts in which the foreign lawsuits are pending are receptive to information obtained through Section 1782. *Third*, the discovery here does not seek to circumvent any proof-gathering restrictions in the forums in which the foreign lawsuits are pending. *Fourth*, the discovery requested is not unduly burdensome, does not seek privileged information, and is limited to specific topics relevant to Mr. Batbold's defenses in the foreign lawsuits.

Mr. Batbold therefore respectfully requests that this Court enter an Order granting Mr. Batbold's *ex parte* application.

Dated: March 9, 2021

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

/s/ Orin Snyder

Orin Snyder

Karin Portlock

Lee R. Crain

Mark J. Cherry (*pro hac vice forthcoming*)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue, 47th Floor

New York, NY 10166-0193

Telephone: (212) 351-3883

Facsimile: (212) 351-5303

Counsel for Petitioner SUKHBAATAR BATBOLD